

MINUTES OF MEETING
MAPLE RIVER WATER RESOURCE DISTRICT
CASS COUNTY HIGHWAY DEPARTMENT
WEST FARGO, NORTH DAKOTA
AUGUST 1, 2013

The Maple River Water Resource District met on August 1, 2013, at 8:00 a.m. at the Cass County Highway Department, West Fargo, North Dakota.

Present were Rodger Olson, Chairman; Jurgen Suhr, Manager; Gerald Melvin, Manager; Carol Harbeke Lewis, Secretary-Treasurer; Sean M. Fredricks and Lucas Andrud, Attorneys for the Board; Mike Opat, Engineer for the Board; Jason Benson, Cass County Engineer; and those whose names appear on the attached roster.

Buffalo Creek – culvert replacement between Sections 32 and 33 of Everest Township

Tom Teigen said a 72" arch pipe rusted out between Sections 32 and 33 of Everest Township. There are also two 30" pipe above grade at this location. The township is planning to replace all three pipe with an 84" arch pipe. Property owners in the area have expressed concern the pipe is too large and suggested the township review the matter with the Water Resource District. The current pipe equal 37.2 square feet of opening and the 84" arch pipe has 37.0 square feet of opening, so the water carrying capacity is just slightly less with the 84" arch pipe. Mr. Teigen said the 84" arch pipe was a special order and the vendor will not take it back, so they would like to make it work.

Sean Fredricks pointed out the Water Resource District had no jurisdiction or decision making authority in this case and that it is solely a township issue. Mr. Teigen said the township was just looking for some new insight on the matter. Chairman Olson suggested the township look at the stream crossing standards.

Todd Weber said 3.5' of silt in front of the culvert was causing water to back up and it was forced north, over the road. He cleaned the dirt away from the culvert and found two additional culverts that were plugged with dirt. He believes installing the 84" arch pipe would allow a higher volume of water through, sending more water over the road, putting more acres of crop and a home at risk.

Mr. Fredricks said the township will need to make the decision on the matter and that the decision could be appealed to District Court.

The need to clean Buffalo Creek was briefly discussed. Chairman Olson said the maintenance district was taken to a vote and failed, but the Water Resource District

would be willing to look at it again if there is enough interest to pursue a project. Property owners present asked if they could clean the channel. Mr. Fredricks said they could do general maintenance, such as cleaning sediment and cattails out of the channel, but they could not deepen, widen or change the slopes on the drain without a permit.

Pontiac Township Improvement District No. 73

Mike Opat reviewed the status of right-of-way acquisition for Pontiac Township Improvement District No. 73.

Chairman Olson said the Cass County Flood Sales Tax Committee will consider funding for the project at a meeting on Monday.

It was moved by Manager Melvin and seconded by Manager Suhr to include crop damage language in all easements regarding Pontiac Township Improvement District No. 73. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Melvin and seconded by Manager Suhr to approve the Resolution of Necessity regarding Pontiac Township Improvement District No. 73. Upon roll call vote, the motion carried unanimously.

It was moved by Manager Suhr and seconded by Manager Melvin to approve the Resolution for Offer to Purchase regarding Pontiac Township Improvement District No. 73. Upon roll call vote, the motion carried unanimously.

Copies of the Resolutions are attached to these minutes.

It was moved by Manager Suhr and seconded by Manager Melvin to authorize the advertisement for bids on the Pontiac Township Improvement District No. 73 Project. Upon roll call vote, the motion carried unanimously. Bids will be opened September 4th and considered at the next meeting.

Upper Maple River Dam

Mike Opat reported the mitigation plan has been completed for the Upper Maple River Dam Project. The Environmental Assessment should be completed by September 1, 2013. Mr. Opat reviewed options on how to proceed with the project.

It was moved by Manager Suhr and seconded by Manager Melvin to proceed with Scenario #3 to complete fieldwork and geotechnical analysis on the Upper Maple River Dam Project. Upon roll call vote, the motion carried unanimously.

Drain #37 – silt removal between Sections 21 and 28 in Addison Township

It was moved by Manager Suhr and seconded by Manager Melvin to authorize Moore Engineering, Inc. to hire a contractor to remove silt from the intercept pipe on Drain #37 between Sections 21 and 28 in Addison Township. Upon roll call vote, the motion carried unanimously.

Drain #37 - bridge replacement between Sections 28 and 33 of Davenport Township

Jason Benson met with the Board to discuss the bridge replacement on Drain #37 between Section 31 in Warren Township and Section 6 in Normanna Township. It was agreed that the box culverts will be installed to match the current channel elevation.

Drain #34 - bridge replacement between Section 31 in Warren Township and Section 6 in Normanna Township

It was moved by Manager Suhr and seconded by Manager Melvin to authorize Moore Engineering, Inc. to survey Drain #34 to establish a profile to assist with the bridge replacement project on Drain #34 between Section 31 in Warren Township and Section 6 in Normanna Township. Upon roll call vote, the motion carried unanimously.

Mr. Benson will provide the Board with a 5-year plan later this fall.

Application to Install a Subsurface Drain #20137 for Kevin Meier, Mike Meier, and Dennis Meier in the SW 1/4 of Section 1 in Buffalo Township

The Board reviewed *Application to Install a Subsurface Drain No. 20137* dated June 5, 2013, for Kevin Meier, Mike Meier, and Dennis Meier. The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicants seek to install a drain tile system in the SW 1/4 of Section 1 in Buffalo Township, Cass County, North Dakota. The project will include a single gravity outlet that will discharge into a natural watercourse that discharges across the SE 1/4 of Section 1 and into Swan Creek.

Because the project will discharge directly into a natural watercourse, the project will not require a *Thirty-Day Notice* under N.D. Cent. Code Section 61-32-03.1, and the Board cannot require Applicants to obtain any flowage easements from downstream landowners.

According to records on file with the Cass County Recorder's Office, Dennis Meier owns a life estate in the E 1/2 SW 1/4 of Section 1, and Kevin Meier owns the remainder interest; similarly, Dennis Meier owns a life estate in the W 1/2 SW 1/4 of Section 1, and Mike Meier owns the remainder interest. Earl and Mary Kasowski own the SE 1/4 of Section 1, subject to a Contract for Deed to Randy and Lori Kasowski.

It was moved by Manager Melvin and seconded by Manager Suhr to approve *Application to Install a Subsurface Drain No. 20137* dated June 5, 2013, for Kevin Meier, Mike Meier, and Dennis Meier in the SW 1/4 of Section 1 in Buffalo Township, subject to the following conditions:

- 1) That Applicants obtain easements from the owner of any land, besides land owned by Applicants, on which Applicants will construct the tile system;

- 2) That Applicants provide and maintain adequate erosion protection at any and all outlets into the natural watercourse that serves as the outlet for Applicants' tile project (Applicants are solely responsible for any damages to the natural watercourse as a result of the tile project);
- 3) That Applicants notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 4) That Applicants notify the Maple River Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and
- 5) That Applicants obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #20138 for Patty Olstad and Kyle Olstad in the NW 1/4 of Section 10 in Lake Township

The Board reviewed *Application to Install a Subsurface Drain No. 20138* dated June 24, 2013, for Patty Olstad and Kyle Olstad. The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicants seeks to install a drain tile system in the NW 1/4 of Section 10 in Lake Township, Cass County, North Dakota. The project will include a gravity outlet that will discharge into a manmade ditch that runs from the south boundary of the NW 1/4 of Section 10 to the west across the E 1/2 of Section 9 in Lake Township; the ditch ultimately discharges into Cass County Drain No. 46 in the E 1/2 of Section 9.

The Board previously provided *Thirty-Day Notices* under N.D. Cent. Code Section 61-32-03.1 to the owners of the E 1/2 of Section 9. Because the project will utilize a private ditch across the E 1/2 of Section 9, the Board will require Applicant to obtain flowage easements from those landowners; the Board concluded the project may result in additional discharge, silt and sediment buildup, and potentially cattails in that manmade ditch.

According to records on file with the Cass County Recorder's Office, Patty Olstad owns the W 1/2 NW 1/4 of Section 10, and Kyle Olstad owns the E 1/2 NW 1/4 of Section 10. With regard to the downstream properties, Elizabeth Ryan owns the NE 1/4 of Section 9, and Robert Stevens owns the SE 1/4 of Section 9.

It was moved by Manager Suhr and seconded by Manager Melvin to approve *Application to Install a Subsurface Drain No. 20138* dated June 24, 2013, for Patty Olstad and Kyle Olstad in the NW 1/4 of Section 10 in Lake Township, subject to the following conditions:

1) That Applicants obtain and record (with the Cass County Recorder's office) flowage easements (and not just written consents), including language that permits saline water, from the owners of the following parcels in Lake Township, Cass County, North Dakota:

- a. NE 1/4 of Section 9; and
- b. SE 1/4 of Section 9;

2) That Applicants obtain easements from the owner of any land, besides land owned by Applicants, on which Applicants will construct the tile system;

3) That Applicants provide and maintain adequate erosion protection at any and all outlets into Cass County Drain No. 46 (Applicants are solely responsible for any damages to Cass County Drain No. 46 as a result of the tile project);

4) That Applicants notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;

5) That Applicants notify the Maple River Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application; and

6) That Applicants obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201215 for Brad Olstad in the SW 1/4 of Section 25 and Section 34 in Rochester Township

The Board directed the Secretary-Treasurer to send a letter to Brad Olstad, and a copy to the State Water Commission, stating that all of the conditions regarding *Application to Install a Subsurface Drain #201215* have been met, and the permit is now in effect.

Pledges of Assets

It was moved by Manager Melvin and seconded by Manager Suhr to approve the following Pledge of Assets:

Alerus Financial (as per agreement of March 7, 1996)

Upon roll call vote, the motion carried unanimously.

Letter from KLJ soliciting views and comments on the proposed bridge replacement project over the Maple River approximately one mile north of Enderlin between Sections 33 and 34 in Pontiac Township

It was moved by Manager Suhr and seconded by Manager Melvin to direct the Secretary-Treasurer to send a letter to KLJ requesting they provide a copy of the hydrologic and hydraulic analyses completed for the proposed bridge replacement over the Maple River approximately one mile north of Enderlin between Sections 33 and 34 in Pontiac Township and setting out that the crossing must be designed to meet the state stream crossing standards, so the analysis should include considerations for the required design discharge, as well as a comparison of the bridge hydraulics under existing conditions and proposed conditions up to a 100-year event. Upon roll call vote, the motion carried unanimously.

2014 Budget and 2013 Maintenance Levy Assessments

It was moved by Manager Suhr and seconded by Manager Melvin to approve the 2014 Budget and 2013 Maintenance Levy Assessments. Upon roll call vote, the motion carried unanimously.

Minutes

It was moved by Manager Suhr, seconded by Manager Melvin and unanimously carried to approve the minutes of the July 12, 2013, meeting.

Bills

It was moved by Manager Suhr and seconded by Manager Melvin to approve the payment of Checks #5095 through #5103 and the electronic funds transfer, as presented. Upon roll call vote, the motion carried unanimously.

Application to Install a Subsurface Drain #201310 for Arnold Buhr in the SW 1/4 of Section 18 in Ayr Township

The Board reviewed an *Application to Install a Subsurface Drain No. 201310* dated July 29, 2013, for Arnold Buhr. The Board concluded the application does not propose drainage of statewide significance, so the Board has jurisdiction to approve the permit (without forwarding to the State Engineer's Office to consider and approve). Under the application, Applicant seeks to install a drain tile system in the SW 1/4 of Section 18 in Ayr Township, Cass County, North Dakota. The project will discharge through an underground pipe across the S 1/2 of Section 13 in Cornell Township until ultimately outletting into Cass County Drain No. 56. The Maple River Water Resource District owns and operates Drain No. 56.

Because the proposed project will not discharge over any private property before out-letting into Drain No. 56, no *Thirty-Day Notice* was necessary under N.D. Cent. Code Section 61-32-03.1, and the Board cannot require Applicant to obtain any flowage easements from downstream landowners. However, Sean Fredricks advised the Board they can require Applicant to obtain an easement from the owners of the S 1/2 of Section 13 in Cornell Township regarding the underground pipe.

According to records on file with the Cass County Recorder's Office, Applicant owns the SW 1/4 of Section 18 in Ayr Township. Further, Collette Folstad owns the S 1/2 of Section 13 in Cornell Township.

It was moved by Manager Suhr and seconded by Manager Melvin to approve a *Utility Permit* and to approve *Application to Install a Subsurface Drain No. 201310* dated July 29, 2013, for Arnold Buhr in the SW 1/4 of Section 18 in Ayr Township, subject to the following conditions:

- 1) That Applicant obtain and record (with the Cass County Recorder's office) a permanent easement (and not just a written consent) that permits applicant to install, operate, and maintain a buried pipe from the owner of the S 1/2 of Section 13, Cornell Township, Cass County, North Dakota;
- 2) That Applicant obtain easements from the owner of any land, besides land owned by Applicant, on which Applicant will construct the tile system;
- 3) That Applicant provide and maintain adequate erosion protection at any and all outlets into Cass County Drain No. 56 (Applicant is solely responsible for any damages to Cass County Drain No. 56 as a result of the tile project);
- 4) That to the extent the project will require Applicant to bore through the township road between the SW 1/4 of Section 18 in Ayr Township and the S 1/2 of Section 13 in Cornell Township, Applicant must obtain written permission from either the Ayr Township Board or the Cornell Township Board, whichever entity is responsible for maintaining the township road, to bore through its township road, to operate and maintain a buried pipe in any of its township road ditches, or to otherwise utilize any township road right of way;
- 5) That Applicant notify the Maple River Water Resource District in advance of any proposed alterations to outlet locations, or addition of any outlets;
- 6) That Applicant notify the Maple River Water Resource District in advance of any proposed improvements to the tile system, or any proposed increase in the capacity or drainage area of the tile system and, if necessary, submitting an additional permit application;

7) That Applicant obtain an approved *Utility Permit* from the Maple River Water Resource District regarding any and all outlets into Cass County Drain No. 56; and

8) That Applicant obtain all other necessary and requisite licenses, permits, registrations, and/or approvals from all applicable federal, state, county, and municipal governments, and any other applicable governmental entities.

Upon roll call vote, the motion carried unanimously.

Letter from Houston Engineering, Inc. soliciting views and comments on the proposed bridge replacement project over the Maple River in Section 10 of Durbin Township

It was moved by Manager Suhr and seconded by Manager Melvin to direct the Secretary-Treasurer to send a letter to Houston Engineering, Inc. requesting they provide a copy of the hydrologic and hydraulic analyses completed for the bridge replacement project over the Maple River in Section 10 of Durbin Township and setting out that the crossing must be designed to meet the state stream crossing standards, so the analysis should include considerations for the required design discharge, as well as a comparison of the bridge hydraulics under existing conditions and proposed conditions up to a 100-year event. Upon roll call vote, the motion carried unanimously.

Adjournment

There being no further business for the Board to consider, it was moved by Manager Melvin, seconded by Manager Suhr and unanimously carried to adjourn the meeting.

APPROVED:

Rodger Olson
Chairman

ATTEST:

Carol Harbeke Lewis
Secretary-Treasurer